

1 [Interim Zoning Controls - Conditional Use Requirement for Residential Mergers]

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3 **Resolution imposing interim zoning controls to require conditional use authorization**
4 **for any residential merger, including mergers of existing units; and making**
5 **environmental findings, including findings of consistency with the eight priority**
6 **policies of Planning Code, Section 101.1.**

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8 WHEREAS, Planning Code, Section 306.7 provides for the imposition of interim zoning
9 controls to accomplish several objectives, including preservation of residential and mixed
10 residential and commercial areas in order to preserve the existing character of such
11 neighborhoods and areas; development and conservation of the commerce and industry of
12 the City in order to maintain the economic vitality of the City, provide its citizens with adequate
13 jobs and business opportunities, and maintain adequate services for its residents, visitors,
14 businesses and institutions; control of uses that have an adverse impact on open space and
15 other recreational areas and facilities; control of uses that generate an adverse impact on
16 pedestrian and vehicular traffic; and control of uses that generate an adverse impact on public
17 transit; and

18 WHEREAS, Policy 2.2 of the City's 2009 Housing Element states that "all proposals to
19 merge units should be carefully considered within the local context and housing trends to
20 assure that the resulting unit responds to identified housing needs, rather than creating fewer,
21 larger and more expensive units;" and

22 WHEREAS, In California Government Code, Section 65852.150, the Legislature
23 declared that second units are a valuable form of housing in California because they "provide
24 housing for family members, students, the elderly, in-home health care providers, the
25 disabled, and others, at below market prices within existing neighborhoods" and that

1 “homeowners who create second units benefit from added income, and an increased sense of
2 security;” and

3 WHEREAS, Policy 1.5 of the City’s 2009 Housing Element states that secondary units
4 in existing residential buildings “represent a simple and cost-effective method of expanding
5 the City’s housing supply;” and

6 WHEREAS, Mayor Lee’s Executive Directive 13-01, “Housing Production and
7 Preservation of Rental Stock” created a Working Group to make recommendations “to
8 preserve and promote rental housing in San Francisco;” and

9 WHEREAS, Policy 3 of the eight priority policies of the City’s General Plan and
10 Planning Code, Section 101.1 establishes a policy “That the City’s supply of affordable
11 housing be preserved and enhanced;” and

12 WHEREAS, Adoption of these interim controls will allow the Board of Supervisors time
13 to consider whether to adopt permanent controls for Residential Mergers; and

14 WHEREAS, The Board has considered the impact on the public health, safety, peace,
15 and general welfare if the interim controls proposed herein are not imposed; and

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

20 WHEREAS, Planning Code, Section 306.7 requires consideration of the following
21 objectives when determining whether to impose interim controls:

22 (1) Preservation of historic and architecturally significant buildings and areas;

23 (2) Preservation of residential neighborhoods;

24 (3) Preservation of neighborhoods and areas of mixed residential and commercial
25 uses in order to preserve the existing character of such neighborhoods and areas;

1 (4) Preservation of the City's rental housing stock;

2 (5) Development and conservation of the commerce and industry of the City in order
3 to maintain the economic vitality of the City, to provide its citizens with adequate jobs and
4 business opportunities, and to maintain adequate services for its residents, visitors,
5 businesses and institutions;

6 (6) Control of uses which have an adverse impact on open space and other
7 recreational areas and facilities;

8 (7) Control of uses which generate an adverse impact on pedestrian and vehicular
9 traffic; and

10 (8) Control of uses which generate an adverse impact on public transit; and

11 WHEREAS, Adoption of these interim controls will ensure that objectives 2, 3, 4 and 5
12 above are met by considering the loss of potentially important housing stock—including
13 smaller units, rent controlled units and unconventional units that are more affordable by their
14 nature that could have an adverse effect on the cultural and economic diversity that is
15 essential to the character of San Francisco's neighborhoods and commercial corridors; and

16 WHEREAS, The Planning Department has determined that the actions contemplated in
17 this Resolution are in compliance with the California Environmental Quality Act (California
18 Public Resources Code, Section 21000 et. seq.). Said determination is on file with the Clerk
19 of the Board of Supervisors in File No. 150532 and is hereby affirmed and incorporated by
20 reference as though fully set forth; now, therefore, be it

21 RESOLVED, That a conditional use permit shall be required for all residential mergers,
22 as defined in Planning Code, Section 317, for existing residential units; and, be it

23 FURTHER RESOLVED, That these interim controls shall remain in effect for eighteen
24 months from the effective date of this Resolution, or until the adoption of permanent legislation

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1 requiring conditional use authorization for residential mergers, whichever first occurs; and, be
2 it

3 FURTHER RESOLVED, That these interim zoning controls advance and are consistent
4 with Policies 2 and 3 of the Priority Policies set forth in Planning Code, Section 101.1, in that
5 they require the Planning Commission to consider the merits of any proposed residential
6 mergers and any potential adverse impact on the cultural and economic diversity of San
7 Francisco neighborhoods—in particular through the elimination of rent controlled housing
8 units or unconventional housing units that are affordable by nature; and, be it

9 FURTHER RESOLVED, With respect to Priority Policies 1, 4, 5, 6, 7 and 8, the Board
10 finds that these interim zoning controls do not, at this time, have an effect upon these policies,
11 and thus will not conflict with said policies.

12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By: _____
15 KATE H. STACY
16 Deputy City Attorney

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