

BOARD of SUPERVISORS



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December 11, 2020

**File No. 201370**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On December 8, 2020, Supervisor Peskin submitted the following legislation:

**File No. 201370**

**Resolution imposing interim zoning controls for an 18-month period for parcels in Residential-Commercial Combined (RC), Residential - Mixed (RM) and Residential - Transit Oriented (RTO) districts, requiring Conditional Use Authorization for any residential development that does 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.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

1 [Interim Zoning Controls - Large Residential Projects in RC, RM and RTO Districts]

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3 **Resolution imposing interim zoning controls for an 18-month period for parcels in**  
4 **Residential-Commercial Combined (RC), Residential - Mixed (RM) and Residential -**  
5 **Transit Oriented (RTO) districts, requiring Conditional Use Authorization for any**  
6 **residential development that does not maximize the number of units allowed by**  
7 **applicable density restrictions; affirming the Planning Department’s determination**  
8 **under the California Environmental Quality Act; and making findings of consistency**  
9 **with the General Plan, and the eight priority policies of Planning Code, Section, 101.1.**

10

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

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

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

25

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

25

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 enconces 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, The interim controls established by this Resolution will allow time for the  
14 orderly completion of a planning study and for the adoption of appropriate legislation; and

15           WHEREAS, The Board of Supervisors (Board) has considered the impact on the public  
16 health, safety, peace, and general welfare if these interim controls are not imposed; and

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

21           WHEREAS, The Board makes the following findings of consistency with the Priority  
22 Policies set forth in Planning Code, Section 101.1: by requiring Conditional Use authorization  
23 for any residential development in an RC, RM or RTO district that does not maximize the  
24 number of units that could be constructed based on the applicable density limits, these interim  
25 controls advance Priority Policy 2, that existing housing and neighborhood character be

1 conserved and protected to preserve the cultural and economic diversity of our  
2 neighborhoods, and these interim controls do not conflict with the other Priority Policies of  
3 Section 101.1; and

4 WHEREAS, The Planning Department has determined that the actions contemplated in  
5 this Resolution comply with the California Environmental Quality Act (California Public  
6 Resources Code, Section 21000 et seq.); said determination is on file with the Clerk of the  
7 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference; the Board  
8 hereby affirms this determination; now, therefore be it

9 RESOLVED, That in multi-unit residential (R) districts, and in single family home zoning  
10 districts that allow for the construction of an Accessory Dwelling Unit, the City and County of  
11 San Francisco hereby reiterates its preference for multi-unit buildings consisting of equitably-  
12 sized Residential Flats, as that housing typology is defined in Planning Commission  
13 Resolution No. 20024; and, be it

14 FURTHER RESOLVED, That as to the alteration or new construction of all residential  
15 buildings in RC, RM and RTO zoning districts, Conditional Use Authorization under Planning  
16 Code, Section 303, shall be required if the residential building does not maximize allowable  
17 density while adhering to the minimum unit size requirements set forth in Planning Code,  
18 Section 206.3; 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 while adhering to the minimum unit size requirements set forth in  
22 Planning Code Section 206.3, Conditional Use Authorization under Planning Code, Section  
23 303 shall not be required if a proposed project increases density on a subject lot, does not  
24 include any single unit greater than 2000 square feet in size, and would not be subject to  
25 Conditional Use Authorization under any other provision of the Planning Code; and, be

1 FURTHER RESOLVED, That Conditional Use Authorization shall not be required for  
2 expansions of existing residential buildings in RC, RM and RTO districts, wherein the  
3 proposed expansion is 10% or less of the existing residential building; and, be it

4 FURTHER RESOLVED, That upon imposition of these interim controls, the Planning  
5 Department shall conduct a study of the contemplated zoning proposal and propose  
6 permanent legislation to address the issues posed by large residential development that does  
7 not maximize the allowable density; and be it

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

11 FURTHER RESOLVED, That for projects scheduled for a hearing at the Planning  
12 Commission under a Discretionary Review as of the effective date of this Resolution, the  
13 Planning Department is requested to expedite the processing and calendaring of any required  
14 Conditional Use authorization under these controls; and, be it

15 FURTHER RESOLVED, That these interim controls shall remain in effect for 18  
16 months from the effective date of this Resolution, or until the adoption of permanent legislation  
17 that addresses substantially the same issues, whichever first occurs; and, be it

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

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By:  /s/ \_\_\_\_\_  
24 AUDREY PEARSON  
25 Deputy City Attorney

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