

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 18, 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 15, 2020, Supervisor Peskin submitted the following substitute 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]

2

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

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 proposed new construction of a residential
15 building in RC, RM and RTO zoning districts. or as to any proposed alteration that would
16 result in the expansion of a residential building in RC, RM and RTO zoning districts,
17 Conditional Use Authorization under Planning Code, Section 303, shall be required if the
18 residential building does not maximize allowable density while adhering to the minimum unit
19 size requirements set forth in Planning Code, Section 206.3; and, be it

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

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

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 no
6 resulting unit would be greater than 2000 square feet in size; and, be it

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

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

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

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

21 //

22 //

23 //

24 //

25 //

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

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: /s/
7 AUDREY PEARSON
8 Deputy City Attorney

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
n:\legana\as2020\2100201\01500645.docx