

BOARD of SUPERVISORS



City Hall
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MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Trent Rhorer, Executive Director, Human Services Agency
Shireen McSpadden, Executive Director, Department on Aging and Adult Services
Rich Hillis, Director, Planning Department

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

DATE: February 16, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Mandelman on February 9, 2021:

File No. 210147

Resolution extending interim zoning controls for 6 months to require a Conditional Use Authorization and specified findings for a proposed change of use from a Residential Care Facility; 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.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

cc: Elizabeth LaBarre, Human Services Agency
Bridget Badasow, Department on Aging and Adult Services
Scott Sanchez, Acting Deputy Zoning Administrator
Corey Teague, Zoning Administrator
Lisa Gibson, Environmental Review Officer
Devyani Jain, Deputy Environmental Review Officer
Adam Varat, Acting Director of Citywide Planning
AnMarie Rodgers, Legislative Affairs
Dan Sider, Director of Executive Programs
Aaron Starr, Manager of Legislative Affairs
Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

1 [Interim Zoning Controls - Extending Conditional Use Authorization for Conversion of
2 Residential Care Facilities to Other Uses]

3 **Resolution extending interim zoning controls for 6 months to require a Conditional Use**
4 **Authorization and specified findings for a proposed change of use from a Residential**
5 **Care Facility; affirming the Planning Department’s determination under the California**
6 **Environmental Quality Act; and making findings of consistency with the General Plan,**
7 **and the eight priority policies of Planning Code, Section 101.1.**

8

9 WHEREAS, Planning Code, Section 306.7, authorizes the Board of Supervisors to
10 impose interim zoning controls to provide time for the orderly completion of a planning study
11 and the adoption of appropriate legislation, and to ensure that the legislative scheme which
12 may be ultimately adopted is not undermined during the planning and legislative process by
13 changes of use or approval actions which will conflict with that scheme; and

14 WHEREAS, Residential Care Facilities, as defined in Planning Code, Sections 102 and
15 890.50(e), and established with or without the benefit of any permits required under City law,
16 provide lodging, board, and care for 24 hours or more to persons in need of specialized aid by
17 State-licensed personnel, and include board and care homes, family care homes, long-term
18 nurseries, orphanages, rest homes or homes for the treatment of addictive, contagious or
19 other diseases, or psychological disorders; and

20 WHEREAS, San Francisco has the highest percentage of seniors and adults with
21 disabilities of any urban area in California, and the number of seniors is steadily increasing,
22 especially those over the age of 85; and

23 WHEREAS, Over 40% of San Francisco’s seniors live without adequate support
24 networks, in part because their families cannot find affordable housing in the City or because
25 they do not have children, and that this need is especially acute among LGBTQ seniors; and

1 WHEREAS, In January 2019, the San Francisco Long-Term Care Coordinating
2 Council’s Assisted Living Workgroup issued a report regarding affordable assisted living in the
3 City, which is on file with the Clerk of the Board of Supervisors in File No. _____, and which
4 found:

- 5 • As of August 2018 there were 101 assisted living facilities with a total of 2,518
6 assisted living beds and since 2012, the City had lost 43 assisted living facilities
7 which had provided 243 assisted living facility beds;
- 8 • The number of assisted living facilities in the City has decreased, and the
9 decrease has primarily occurred through the closure of small facilities,
10 particularly the board and care homes with six or fewer beds, that are generally
11 more affordable;
- 12 • Assisted living facilities in the City face economic challenges, such as slim profit
13 margins and difficulty in finding employees that make it difficult for them to
14 continue to operate; and
- 15 • There is unmet need for affordable assisted living facility placements, and that
16 as of January 2019, available waitlist data indicates that at least 103 persons
17 require such placements; and

18 WHEREAS, On October 1, 2019, the Board of Supervisors adopted Resolution No.
19 430-19, which imposed interim controls for an 18-month period to require Conditional Use
20 Authorization and specified findings for a proposed change of use from a Residential Care
21 Facility; and

22 WHEREAS, The circumstances that caused the Board to adopt the interim controls
23 continue to exist, with preliminary data provided by the Human Services Agency showing the
24 loss of an additional 11 assisted living facilities as of January 2021, accounting for a loss of
25 226 assisted living facility beds in facilities of fewer than 100 beds; and

1 WHEREAS, The Planning Department issued a report dated January 29, 2021, which
2 found since the effective date of Resolution No. 430-19 on October 11, 2019:

- 3 • Two Conditional Use applications have been filed for the removal of a
4 Residential Care Facility, with one application seeking to convert a previously
5 closed facility with five assisted living beds into a single-family home having
6 been withdrawn, and the second application to convert a facility with six
7 assisted living beds that had closed in 2015 into two residential units currently
8 pending before the Planning Commission;
- 9 • Three Residential Care Facilities for people living with HIV/AIDS managed by
10 the Mayor’s Office of Housing and Community Development are being
11 considered for delicensing and conversion to affordable group housing
12 buildings, but have not yet filed Conditional Use applications for conversion;
- 13 • Two applications have been approved to create new Residential Care Facilities,
14 and two applications have been approved to expand existing facilities for a total
15 increase of 107 assisted living beds approved; and
- 16 • Residential Care Facilities are considered an Institutional Use that is permitted
17 in Residential zoning districts, with the exception of the RH-1 and RH-2 zoning
18 districts, where new Residential Care Facilities of seven or more beds are
19 Conditionally permitted; are not permitted in PDR districts; are not permitted on
20 the ground floor in North Beach, Folsom Street and Regional Commercial
21 Districts, and are Conditionally permitted on the upper floors in those districts;
22 and are Conditionally permitted in the Pacific Avenue NC District.

23 WHEREAS, The Department of Public Health, the Human Services Agency, the
24 Department of Aging and Adult Services, and the San Francisco Long-Term Care
25 Coordinating Council continue to actively assess the current availability of Residential Care

1 Facilities in San Francisco for aging populations and those in need of long-term mental health
2 care; to develop strategies to establish additional, economically sustainable Residential Care
3 Facilities for City residents; and to consider potential zoning amendments as one of the policy
4 approaches to address these issues; and

5 WHEREAS, It is necessary for the City to further study and assess the establishment
6 and sustainability of Residential Care Facilities as a critical component of the City's ability to
7 serve populations with additional, long-term needs, as part of the City's future development;
8 and

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

12 WHEREAS, The Board of Supervisors ("Board") has considered the impact on the
13 public health, safety, and general welfare if the interim zoning controls proposed in this
14 resolution are not extended; and

15 WHEREAS, The Board has determined that the public interest will best be served by
16 extension of these interim zoning controls at this time, to ensure that any legislative scheme
17 that may ultimately be adopted to regulate conversion of Residential Care Facility Uses will
18 not be undermined during the planning and legislative process; and

19 WHEREAS, The Board finds that the extension of these interim controls is consistent
20 with the General Plan, in that the controls satisfy Objective 4 to "foster a housing stock that
21 meets the needs of all residents across lifecycles" and that they do not conflict with any other
22 aspects of the General Plan; and

23 WHEREAS, The Board finds that the extension of these interim zoning controls
24 advances Planning Code, Section 101.1(b)'s Priority Policy No. 2, "That existing housing and
25 neighborhood character be conserved and protected in order to preserve the cultural and

1 economic diversity of our neighborhoods,” and Priority Policy No. 3, “That the City's supply of
2 affordable housing be preserved and enhanced,” in that these interim zoning controls seek to
3 control the conversion of Residential Care Facility Uses, which would provide City policy-
4 makers with the opportunity to develop legislative proposals that would allow seniors and
5 other populations with needs to find affordable housing options in San Francisco, thus
6 preserving the cultural and economic diversity of the City’s neighborhoods; and the Board also
7 finds that these interim zoning controls do not have an effect on and therefore are consistent
8 with Priority Policy Nos. 1, 4, 5, 6, 7, and 8 of Planning Code, Section 101.1; and

9 WHEREAS, The Planning Department has determined that the actions contemplated in
10 this Resolution comply with the California Environmental Quality Act (Pub. Res. Code
11 Sections 21000 *et seq.*), which determination is on file with the Clerk of the Board in File No.
12 _____ and is incorporated herein by reference, and the Board affirms this determination;
13 now, therefore, be it

14 RESOLVED, That the interim controls imposed by Resolution No. 430-19 are hereby
15 extended and shall remain in effect until October 11, 2021, or until the adoption of permanent
16 legislation, whichever first occurs; and be it

17 FURTHER RESOLVED, That any proposed change of use from a Residential Care
18 Facility, as defined in Sections 102 and 890.50(e) of the Planning Code, shall require
19 Conditional Use Authorization while these interim zoning controls are in effect; and be it

20 FURTHER RESOLVED, That, in addition to the findings required pursuant to Planning
21 Code, Section 303, any consideration of a Conditional Use Authorization for a change of use
22 from a Residential Care Facility to another use shall take into account the following factors:

- 23 1) Any findings by the Department of Public Health, the Human Services Agency,
24 the Department of Aging and Adult Services, or the San Francisco Long-Term Care

1 Coordinating Council regarding the capacity of the existing Residential Care Facility Use, the
2 population served, and the nature and quality of services provided;

3 2) The impact of the change of use on the neighborhood and community;

4 3) Whether there are sufficient available beds at a licensed Residential Care
5 Facility within a one-mile radius of the site; and

6 4) Whether the Residential Care Facility Use to be converted will be relocated or
7 replaced with another Residential Care Facility Use; and be it

8 FURTHER RESOLVED, That the extension of these interim zoning controls becomes
9 effective when the Mayor signs this resolution, the Mayor returns the resolution unsigned, or
10 the Board overrides the Mayor's veto of the resolution.

11

12 APPROVED AS TO FORM:

13 DENNIS J. HERRERA
14 City Attorney

15 By /s/ Victoria Wong
16 VICTORIA WONG
Deputy City Attorney

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Mandelman

Subject:

Interim Zoning Controls - Extending Conditional Use Authorization for Conversion of Residential Care Facilities to Other Uses

The text is listed:

Resolution extending interim zoning controls for 6 months to require a Conditional Use Authorization and specified findings for a proposed change of use from a Residential Care Facility; 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.

Signature of Sponsoring Supervisor: []

For Clerk's Use Only