Resolution extending and modifying interim zoning controls enacted in Resolution No. 10-21 for parcels in Residential-Commercial Combined (RC), Residential-Mixed (RM) and Residential-Transit Oriented (RTO) districts, requiring Conditional Use Authorization for certain residential developments that do 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.

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

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

WHEREAS, Policymakers at the City and state level have sought to increase housing density across the state, including through the implementation of a Citywide Accessory Dwelling Unit Program in San Francisco that applies to existing structures and to new
construction and which allows for the increased densification of residential and mixed-use neighborhoods and zoning districts; and

WHEREAS, While significant emphasis has been placed on increasing the capacity for increased housing density in residential and mixed use zoning districts, and to remove various substantive and procedural restrictions on the construction of affordable housing in particular, comparatively little emphasis has been placed on setting density minimums and creating disincentives for low-density projects in zoning districts that allow for greater density; and

WHEREAS, The construction of large residences is indicative of a market preference for demonstrably unaffordable housing, even in zoning districts that permit greater capacity for housing density and which tend to be characterized by higher density, more affordable, and rent-stabilized housing; and

WHEREAS, The construction of large residences in zoning districts that permit greater capacity for housing density, such as Residential-Commercial Combined (RC), Residential-Mixed (RM), or Residential-Transit Oriented (RTO) districts, forgoes opportunities for more affordable housing, and frequently results in the loss or conversion of housing protected by rent stabilization provisions of the San Francisco Rent Ordinance; and

WHEREAS, Objective 2 of San Francisco's 2014 Housing Element states that "conserving and improving the existing (housing) stock is critical to San Francisco's long term housing strategy"; and

WHEREAS, The 2020 Housing Balance Report, produced by the Planning Department pursuant to Section 103 of the Planning Code, indicates that for the period from 2010 Quarter 1 - 2019 Quarter 4, 7,081 units of net new affordable housing have been built in San Francisco while 3,951 units have been removed from protected status, a ratio of just 1.79 units built for every 1 unit lost; and
WHEREAS, The loss of affordable and rent controlled housing is driven in part by the demolition, merger, and conversion of those homes and their replacement with market rate housing and, notably, large single family homes in zoning districts that permit increased capacity for housing density; and

WHEREAS, Planning Commission Resolution No. 20024, also known as the "Residential Flat Removal Policy," defines a "Residential Flat" as a common San Francisco housing typology consisting of a single dwelling unit, generally occupying an entire story within a building, and having exposure onto open areas at the front and rear of the property; and

WHEREAS, Planning Commission Resolution No. 20024 ensconces a preference for the Residential Flat housing typology by subjecting any project that proposes to remove a Residential Flat to mandatory discretionary review before the Planning Commission; and

WHEREAS, On January 22, 2021, the City adopted Resolution No. 10-21 which imposed interim controls for an 18-month period to require conditional use authorization for certain residential projects in RM, RC, and RTO districts that did not maximize the principally permitted residential density; and,

WHEREAS, The circumstances that caused the Board to adopt the interim controls in Resolution No. 10-21 continue to exist; and,

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

WHEREAS, Planning Code, Section 306.7(h), authorizes the body that imposed the interim controls to extend the interim controls up to a time period not to exceed 24 months; and,
WHEREAS, The Board of Supervisors (Board) has considered the impact on the public health, safety, peace, and general welfare if these interim controls are not extended and modified; and

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

WHEREAS, The Board makes the following findings of consistency with the Priority Policies set forth in Planning Code, Section 101.1: by requiring Conditional Use authorization for any residential development in an RC, RM, or RTO district that does not maximize the number of units that could be constructed based on the applicable density limits, the extension and modification of these interim controls advance Priority Policy 2, that existing housing and neighborhood character be conserved and protected to preserve the cultural and economic diversity of our neighborhoods, and these interim controls as extended and modified do not conflict with the other Priority Policies of Section 101.1; and

WHEREAS, Unlike parcels in RC, RM, and RTO districts, parcels in RTO-M districts do not have any density limit but instead density is regulated by permitted height, bulk, and other standards; and

WHEREAS, The Planning Department has determined that the actions contemplated in this Resolution comply with the California Environmental Quality Act (California Public Resources Code, Section 21000 et seq.); said determination is on file with the Clerk of the Board of Supervisors in File No. 220895 and is incorporated herein by reference; and the Board hereby affirms this determination; now, therefore be it
RESOLVED, That the interim controls imposed by Resolution No. 10-21 are hereby extended and modified as set forth herein, and shall remain in effect until January 22, 2023, or until the adoption of permanent legislation, whichever first occurs; and be it

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

FURTHER RESOLVED, That as to the proposed new construction of a residential building in RC, RM, and RTO zoning districts or as to any proposed alteration that would result in the expansion of a residential building in RC, RM and RTO zoning districts, Conditional Use Authorization under Planning Code, Section 303, shall be required if the residential building does not maximize the principally permitted residential density, not including any additional residential density permitted under state law or Planning Code Sections 206 et seq, while adhering to the minimum unit size requirements set forth in Planning Code Section 206.3; and, be it

FURTHER RESOLVED, That for purposes of this Resolution, RTO zoning districts shall not include parcels zoned RTO-M; and, be it

FURTHER RESOLVED, That if 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, Section 206.3, Conditional Use Authorization under Planning Code, Section 303, shall not be required if a proposed project increases density on a subject lot, does not include any single unit
greater than 2000 square feet in size, and would not be subject to Conditional Use
Authorization under any other provision of the Planning Code; and, be it

FURTHER RESOLVED, That Conditional Use Authorization shall not be required for
expansions of existing residential buildings in RC, RM, and RTO districts, wherein the
proposed expansion is 25% or less of the existing residential building, provided that the
proposed expansion (1) does not increase the size of any unit that is already larger than 2000
square feet in size; (2) does not create any new unit that is greater than 2000 square feet in
size; and (3) does not cause an existing unit that is less than 2000 square feet in size to be
larger than 2000 square feet in size; and, be it

FURTHER RESOLVED, That Conditional Use Authorization shall not be required for
expansions of existing residential buildings in RC, RM, and RTO districts, wherein the
proposed expansion is to a building of two or more units, no resulting individual unit would be
greater than 3000 square feet, and no resulting individual unit would be less than 50% of the
size of the largest unit in the building; and, be it

FURTHER RESOLVED, That the Planning Department shall continue its study of the
contemplated zoning proposal and propose permanent legislation to address the issues
posed by large residential development that does not maximize the allowable density; and, be
it

FURTHER RESOLVED, That these interim controls shall apply to all applications for
residential development where a final site or building permit has not been issued as of the
effective date of this Resolution extending the interim controls adopted in Resolution 10-21, to
the extent allowed by law; and, be it

FURTHER RESOLVED, That for projects scheduled for a hearing at the Planning
Commission under a Discretionary Review as of the effective date of this Resolution
extending the interim controls adopted in Resolution No. 10-21, the Planning Department is
requested to expedite the processing and calendaring of any required Conditional Use authorization under these controls; and, be it

FURTHER RESOLVED, That these interim controls as modified shall remain in effect for until January 22, 2023, or until the adoption of permanent legislation that addresses substantially the same issues, whichever first occurs; and, be it

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
AUDREY PEARSON
Deputy City Attorney
Resolution extending and modifying interim zoning controls enacted in Resolution No. 10-21 for parcels in Residential-Commercial Combined (RC), Residential-Mixed (RM) and Residential-Transit Oriented (RTO) districts, requiring Conditional Use Authorization for certain residential developments that do 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.

September 12, 2022 Land Use and Transportation Committee - RECOMMENDED

September 20, 2022 Board of Supervisors - ADOPTED
Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 220895

I hereby certify that the foregoing Resolution was ADOPTED on 9/20/2022 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved
9/29/22