



# SAN FRANCISCO PLANNING DEPARTMENT

June 21, 2010

Ms. Angela Calvillo, Clerk  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: ~~Transmittal of Planning Department Case Number 2010.0273T:~~  
~~Castro Street Neighborhood Commercial District: Eating Uses~~  
~~Board File Number 10-0434~~  
~~Planning Commission Recommendation: Approval~~

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Ms. Calvillo,

On June 17<sup>th</sup>, the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance.

The proposed Ordinance would amend the Castro NCD Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurant), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) to allow new full-service restaurants and small self-service restaurants with a Conditional Use Authorization; permit self-service specialty food establishments as-of-right, and to prohibit new large fast food restaurants in the Castro NCD.

The proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the June 17<sup>th</sup> hearing, the Commission voted to recommend approval of the proposed Ordinance.

Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

John Rahaim  
Director of Planning

cc: Supervisor Dufty

Attachments (one copy of the following):

Planning Commission Resolution No. 18107

Planning Commission Executive Summary for Case No. 2009.1066T

[www.sfplanning.org](http://www.sfplanning.org)



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 18107 HEARING DATE: JUNE 17, 2010

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San Francisco,  
CA 94103-2479

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*Project Name:* Amendments relating to the Castro NCD:  
Restaurant and Eating Uses  
*Case Number:* 2010.0273T [Board File-No. 10-0434]  
*Initiated by:* Supervisor Dufty / Introduced April 6, 2010  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* Recommend Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE CASTRO NEIGHBORHOOD COMMERCIAL DISTRICT PLANNING CODE SECTIONS 715.1 (ZONING CONTROL TABLE), 715.42 (FULL-SERVICE RESTAURANTS), 715.43 (LARGE FAST FOOD RESTAURANTS), 715.44 (SMALL SELF-SERVICE RESTAURANTS), AND 715.69A (SPECIALTY FOOD, SELF-SERVICE) TO ALLOW NEW FULL-SERVICE RESTAURANTS AND SMALL SELF-SERVICE RESTAURANTS WITH A CONDITIONAL USE AUTHORIZATION, PERMIT SELF-SERVICE SPECIALTY FOOD ESTABLISHMENTS AS-OF-RIGHT, AND REMOVE LARGE FAST FOOD RESTAURANTS FROM THE CASTRO NCD.

### PREAMBLE

Whereas, on April 6, 2010, Supervisor Dufty introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0434 which would amend the Castro NCD Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurant), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) to allow new full-service restaurants and small self-service restaurants with a Conditional Use Authorization; permit self-service specialty food establishments as-of-right, and to prohibit new large fast food restaurants in the Castro NCD; and

Whereas, on June 17, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance* and adopts the attached Draft Resolution to that effect.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Castro NCD Controls have not been substantially revised since their adoption in 1987;
2. The Castro NCD prohibits new restaurants and bar uses of any type;
3. The one exception is for large fast food restaurants, which is permitted only in one particular lot at the corner of Castro and Market Street;
4. Under Section 179(a) of the Planning Code, those restaurants and bar uses which lawfully existed on the effective date of Ordinance No. 69-87, enacting the Castro NCD in 1987, are nonconforming and permitted to remain in use;
5. Any nonconforming use in the Castro NCD is considered to be 'abandoned' pursuant to Section 178(d) after 18 months rather than three years, as with the majority of other NCDs;
6. A Self-Service Specialty Food establishment is a new use definition that was enacted in December 2008. New self-service specialty food establishments are also prohibited in the Castro NCD;
7. Over the past several years, the Commission has received requests to look at particular NCDs and the controls for eating and drinking uses. The intent of the prohibition on eating and drinking uses was to slowly decrease the number of these uses over time; however, the Department found that in particular NCDs, this prohibition often created a stagnant restaurant scene, with the few remaining restaurants not catering to the needs of the community. While the number and quality of restaurants decreased, the role of food, particular restaurants, in San Francisco grew;
8. In addition, there has been a shift in recent years more towards food and drink facilities as being integral components of a thriving neighborhood. The result of the prohibition of new restaurants has resulted in an accumulation of demand for these types of establishments;

9. The Commission believes that opening up the full-service restaurant and small self-service restaurant uses to a Conditional Use Authorization will allow the Commission to analyze each application on a case-by-case basis;
10. Allowing specialty food, self-service uses as-of-right will encourage these neighborhood-serving uses to locate in the NCD;
11. The removal of the control for one large fast food restaurant will not have a negative impact on the NCD for these uses are generally not permitted and are not desirable for the Castro NCD;
12. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

**I. COMMERCE & INDUSTRY ELEMENT**

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

**GOALS**

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

**OBJECTIVE 6**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**POLICY 6.2**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

**POLICY 6.3**

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

**POLICY 6.10**

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

*The character of the Castro NCD has changed over the past 20 years. Permitting new full-service restaurants and small self-service restaurant uses through the Conditional Use Authorization process, will help to bring these important uses back to the NCD, while allowing community involvement in the approval process.*

*The proposed Ordinance seeks to remedy the existing conditions while also accommodating the demand for full-service restaurants, small self-service restaurants, and specialty food, self-service establishment uses for residents in the Castro NCD. The proposed Ordinance promotes small business enterprises by fostering the growth of full-service restaurants, small self-service restaurants, and specialty food, self-service establishments in the Castro NCD.*

*The proposed Ordinance promotes the mixed commercial-residential character in the Castro NCD by allowing a new full-service restaurants and small self-service restaurants on a case-by-case basis, and by allowing specialty food, self-service establishments' as-of-right, all of which will serve the residents in the neighborhood and contribute to the existing mix of businesses in the Castro NCD.*

13. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance will encourage neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses in the Castro NCD by allowing new eating and drinking uses through the Conditional Use Authorization process and as-of-right.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed legislation contains requires the Planning Commission to use the conditional use criteria when evaluating each proposed full-service restaurant and small self-service restaurant. The conditional use process will allow for the continued presence and economic viability of existing neighborhood establishments while not negatively affecting existing residential development, housing or neighborhood character. Further, any specialty food, self-service establishment will require a 312 neighborhood notice which will enable the community to have input in the placement of these uses.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.*


- G) That landmark and historic buildings will be preserved:

*Landmarks and historic buildings would be unaffected by the proposed amendments. Should a proposed use be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 17, 2010.

  
Linda Avery  
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Lee, Antonini

NAYS:

ABSENT: Borden

ADOPTED: June 17, 2010



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change HEARING DATE: JUNE 17, 2010

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Restaurant and Eating Uses  
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*Initiated by:* Supervisor Dufty / Introduced April 6, 2010  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257  
*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* Recommend Approval

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Castro NCD Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurant), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) to allow new full-service restaurants and small self-service restaurants with a Conditional Use Authorization; permit self-service specialty food establishments as-of-right, and to prohibit new large fast food restaurants in the Castro NCD.

#### The Way It Is Now:

The Castro NCD prohibits new restaurants and bar uses of any type.<sup>1</sup> The one exception is for large fast food restaurants, which is permitted only in one particular lot at the corner of Castro and Market Street.<sup>2</sup>

Under Section 179(a) of the Planning Code, those restaurants and bar uses which lawfully existed on the effective date of Ordinance No. 69-87, enacting the Castro NCD in 1987, are nonconforming and permitted to remain in use.

Any nonconforming use is considered to be 'abandoned' pursuant to Section 178(d) after 18 months rather than three years, as with the majority of other NCDs.<sup>3</sup>

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<sup>1</sup> San Francisco Planning Code Sections 715.41 (Bar), 715.42 (Full-Service Restaurant), 715.44 (Small Self-Service Restaurant), and 715.69A (specialty food, self-service) → all are currently not permitted in the Castro NCD.

<sup>2</sup> See 715.43 – Controls for Large Fast Food Restaurants in the Castro NCD.

<sup>3</sup> Section 178(d): **Abandonment.** A permitted conditional use which is discontinued for a period of three years, or otherwise abandoned, shall not be restored, except upon approval of a new conditional use application pursuant to the provisions of Article 3 of this Code. For purposes of this Subsection, the period of nonuse for a permitted conditional use to be deemed discontinued in the North Beach, Castro Street Neighborhood Commercial Districts, and the Jackson Square Special Use District shall be eighteen

**The Way It Would Be:**

The proposed ordinance would allow a proposed full-service restaurant and a small self-service restaurant to apply for a Conditional Use Authorization in the Castro NCD. There would be no numerical cap or a sunset clause; rather it would permit these uses to be approved by the Planning Commission on a case-by-case basis.

The Code would permit as-of-right a specialty food, self-service establishment, and would remove the control that allows one large fast food restaurant in the NCD.

**REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

**RECOMMENDATION**

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

**BASIS FOR RECOMMENDATION**

The citywide Neighborhood Commercial Controls were enacted in 1987 in response to land use issues identified by neighborhood groups, planners, and elected officials. Along Castro Street and elsewhere in the City, restaurants and bars were identified as volatile uses which could multiply and upset the commercial equilibrium by forcing out critical neighborhood services. This concern led to prohibitions such as those in the Castro Street NCD, which nearly 20 years later continue disallow new restaurants and bars or the reestablishment of restaurant and bar uses which had converted for a period of time to another use.

The table below compares the number of eating and drinking uses from 1987 to 2010.

|                               | 1987 | 2010 |
|-------------------------------|------|------|
| Take Out Establishments       | 5    | 1    |
| Self-Service Restaurants      | 7    | 8    |
| Full-Service Restaurants      | 25   | 21   |
| Bar                           | 13   | 13   |
| Specialty Grocery/Supermarket | 7    | 4    |
| Liquor Store                  | 3    | 2    |
| Vacancies                     | 6    | 6    |

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(18) months, except that in the North Beach Neighborhood Commercial District, the period of non use for a full service restaurant use, as defined in Section 790.91, to be deemed discontinued shall be three years.



Over the past several years, the Department has received requests to look at particular NCDs and the controls for eating and drinking uses. The intent of the prohibition on eating and drinking uses was to slowly decrease the number of these uses over time; however, the Department found that in particular NCDs, this prohibition often created a stagnant restaurant scene, with the few remaining restaurants not catering to the needs of the community. While the number and quality of restaurants decreased, the role of food, particular restaurants, in San Francisco grew. The result of the prohibition of new restaurants has resulted in an accumulation of demand for these types of establishments.

Starting with Noe-24<sup>th</sup> Street NCD in 2005, the Department began to recommend the re-introduction of eating and drinking controls in particular NCDs. Since 2005, there have been 7 Ordinances that have dealt with this issue.

The Department believes that opening up the full-service restaurant and small self-service restaurant uses to a Conditional Use Authorization in the Castro NCD will allow the Commission to analyze each application on a case-by-case basis. When the number of restaurants exceeds the needs of the community, the Commission can deny the application. Under the proposed legislation each application will be judged on the merits of its application, the needs of the community, and the criteria in the Planning Code.

In addition, the proposed Ordinance will allow self-service specialty food uses as-of-right. This use was recently placed into the Planning Code, and consists of neighborhood-services uses where specialty foods are often made on the premises and sold for take-away and open during regular business hours. Uses such as bakeries and confectionaries are typical examples of this use. Under Section 312, this use will require a 30-day neighborhood notification, which will enable the community to have input about the proposed establishment.

Lastly, the control for large fast-food restaurant will be removed. This was placed in the Code for one specific establishment, as is obvious from the language of the control. Large fast-food restaurants are generally not permitted (see Attachment C). Where these types of establishments are permitted, they are regulated through the formula retail controls. Because the control in the Castro NCD was crafted specifically for one parcel, and that this parcel has since had its large fast-food use abandoned (originally Noah's bagels; it is currently a Sprint store), the Department would like to remove this provision.

In sum, the Department supports the proposed Ordinance to permit new full-service restaurants and small self-service restaurants with a Conditional Use Authorization, and to allow specialty foods, self-service establishments as-of-right, and to remove the control for large fast food restaurants in the Castro NCD.

## ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Sections 715.1 (Zoning Control Table), 715.42 (full-service restaurants), 715.43 (large fast food restaurants), 715.44 (small self-service restaurants), and 715.69A (specialty food, self-service) in the Castro NCD would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

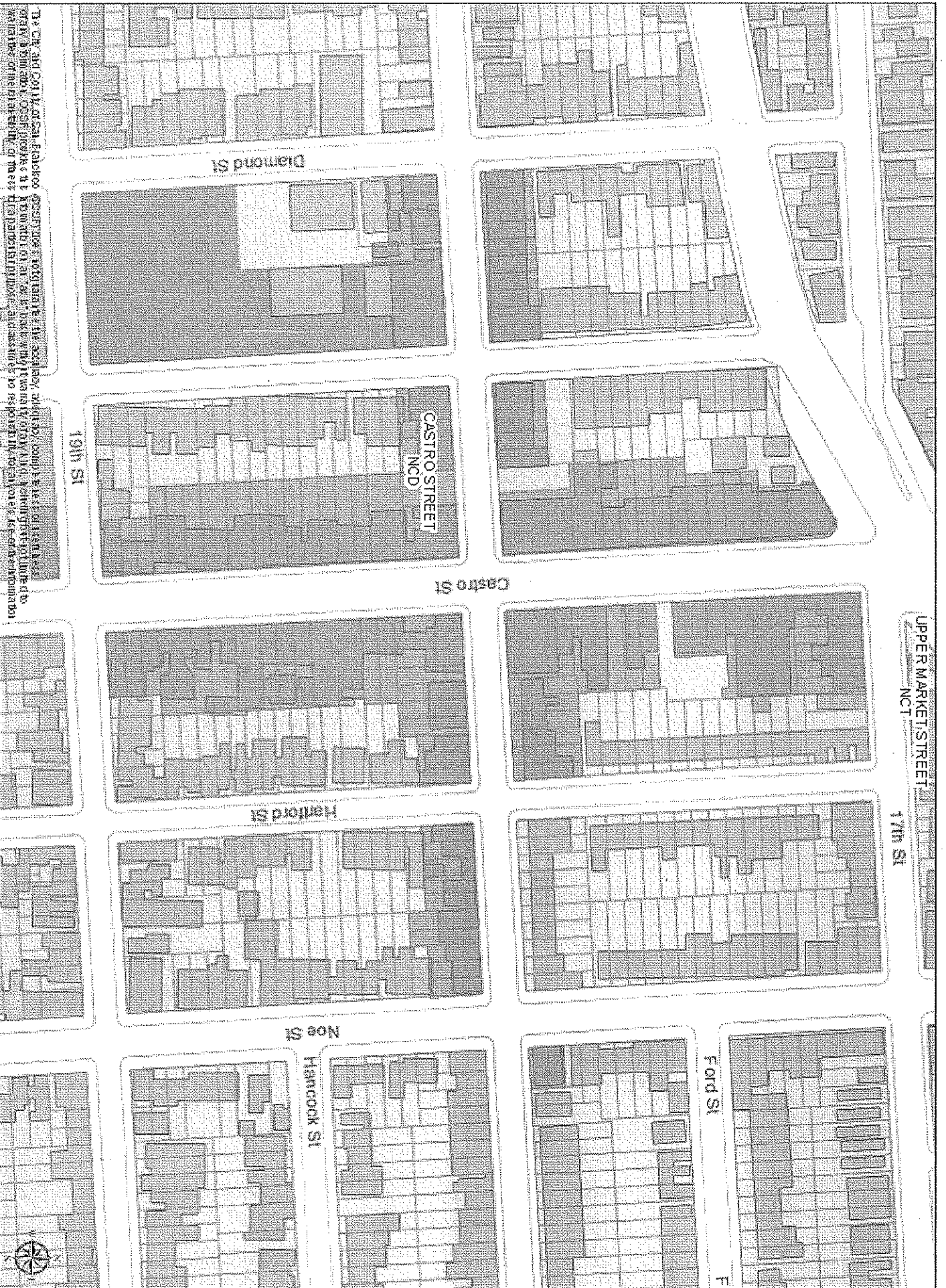
**PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any comments in with regard to the proposed Ordinance.

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| <b>RECOMMENDATION:</b> <b>Recommendation of Approval</b> |
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**Attachments:**

- Exhibit A:      Draft Planning Commission Resolution
- Exhibit B:      Board of Supervisors File No. 10-0434
- Exhibit C:      Restaurant Uses Permitted by Zoning District, June 2010



THE CITY AND COUNTY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, hereby certifies that the above described property is within the Castro NCD. The City and County of San Francisco, County of San Francisco, hereby certifies that the above described property is within the Castro NCD. The City and County of San Francisco, County of San Francisco, hereby certifies that the above described property is within the Castro NCD.

