San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
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October 16, 2025

Ms. Angela Calvillo, Clerk
Honorable Supervisor Chan
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 2025-007349PCA:**
Legacy Businesses in Neighborhood Commercial Districts
Board File No. 250808

Planning Commission Action: Adopted a Recommendation for Disapproval

Dear Ms. Calvillo and Supervisor Chan,

On October 16, 2025, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, which would require conditional use authorization prior to replacing a Legacy Business with a new non-residential use in certain Neighborhood Commercial, Named Neighborhood Commercial, and Neighborhood Commercial Transit Districts, and in the Chinatown Mixed Use Districts. The Planning Commission adopted a recommendation for disapproval and made findings of inconsistency with the General Plan.

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

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

cc: Audrey Pearson, Deputy City Attorney
Calvin Yan, Aide to Supervisor Chan
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary

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PLANNING COMMISSION RESOLUTION NO. 21848

HEARING DATE: **October 16, 2025**

Project Name:	Legacy Businesses in Neighborhood Commercial Districts
Case Number:	2025-007349PCA [Board File No. 250808]
Initiated by:	Supervisor Chan / Introduced July 29, 2025
Staff Contact:	Audrey Merlone, Legislative Affairs Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR DISAPPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REQUIRE CONDITIONAL USE AUTHORIZATION PRIOR TO REPLACING A LEGACY BUSINESS WITH A NEW NON-RESIDENTIAL USE IN CERTAIN NEIGHBORHOOD COMMERCIAL, NAMED NEIGHBORHOOD COMMERCIAL, AND NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICTS, AND IN THE CHINATOWN MIXED USE DISTRICTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF INCONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND MAKING FINDINGS OF PUBLIC NECCESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on July 29, 2025, Supervisor Chan introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 250808, to require conditional use authorization prior to replacing a Legacy Business with a new non-residential use in certain Neighborhood Commercial, Named Neighborhood Commercial, and Neighborhood Commercial Transit Districts, and in the Chinatown Mixed Use Districts;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 16, 2025; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c)(2); and

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby adopts a **recommendation for disapproval** of the proposed ordinance.

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:

The Commission recommends disapproval of the proposed Ordinance. While the Commission agrees with the intent to protect Legacy Businesses, the proposed CUA requirement misapplies a land use tool to an economic stabilization challenge. Land use controls are designed to manage intensity, compatibility, and physical impacts of development. They are not effective mechanisms for addressing business retention or stabilization needs. Additionally, the CUA would create barriers for small businesses, discourage landlords from leasing to Legacy Businesses, and prolong vacancies. These outcomes directly conflict with the stated goal.

By contrast, direct financial assistance and stabilization programs such as grants, rent relief, and technical support remain the most effective means to protect Legacy Businesses. These programs directly address financial and operational challenges faced by Legacy Businesses. They avoid unnecessary regulatory burdens and provide meaningful, equitable support to culturally diverse communities and neighborhoods.

In summary, while the Commission supports sustaining Legacy Businesses, the proposed Ordinance is unlikely to achieve that goal. It risks harming the small business ecosystem instead. The Commission instead encourages investment in direct assistance strategies that effectively support Legacy Business retention.

General Plan Compliance

The proposed Ordinance is INCONSISTENT with the following Objective and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2
MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1
Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3
Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance is not consistent with the General Plan. The imposition of additional CUA requirements would create uncertainty and extended delays that disproportionately affect small businesses. These enterprises, which are critical to neighborhood vitality and economic diversity, may be deterred from establishing operations in San Francisco due to higher costs and longer timelines.

Additionally, prolonged vacancies caused by burdensome regulatory processes contribute to disinvestment in underserved communities, limiting access to goods and services and undermining neighborhood stability. As such, the proposed Ordinance would add barriers to new business formation and discourage landlords from leasing to Legacy Businesses. Taken together, these problems demonstrate that the ordinance is inconsistent with General Plan policies that prioritize business retention, attraction, and economic diversity. By creating regulatory disincentives for both new enterprises and Legacy Businesses, the proposal undermines the city's long-term goals of sustaining a diverse, inclusive, and resilient economy.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are either consistent or inconsistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed Ordinance <u>would</u> have a negative effect on neighborhood serving retail uses and will have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

   The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

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

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

   The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

   The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the denial of the proposed amendments pursuant to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby ADOPTS A RECOMMENDATION FOR DISAPPROVAL of the proposed Ordinance as described in this Resolution,

AND BE IT RESOVED that the proposed Ordinance is inconsistent with the General Plan.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 16, 2025.

Jonas P. Ionin
Commission Secretary

AYES:	Campbell, McGarry, Braun, So
NOES:	Imperial, Moore
ABSENT:	Williams
ADOPTED:	October 16, 2025

San Francisco Planning

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EXECUTIVE SUMMARY
PLANNING CODE TEXT AMENDMENT

HEARING DATE: October 16, 2025

90-Day Deadline: November 5, 2025

Project Name:	Legacy Businesses in Neighborhood Commercial Districts
Case Number:	2025-007349PCA [Board File No. 250808]
Initiated by:	Supervisor Chan / Introduced July 29, 2025
Staff Contact:	Audrey Merlone, Legislative Affairs Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 628-652-7533
Environmental *Review:*	Not a Project Under CEQA

RECOMMENDATION: **Adopt a Recommendation for Disapproval**

Planning Code Amendment

The proposed Ordinance would require Conditional Use authorization (CUA) for any business seeking to occupy a storefront space last occupied by a Legacy Business, regardless of use type or underlying zoning district controls, in all Neighborhood Commercial, Neighborhood Commercial Transit, and Chinatown Mixed Use districts.

The Way It Is Now:

With limited exceptions, the city does not have a permanent CUA requirement to establish a new business in a space previously occupied by a Legacy Business. A permanent requirement only exists in three zoning districts: the Mission Street Neighborhood Commercial District (NCD), the Pacific Avenue NCD, and the Polk Street NCD.

The Way It Would Be:

The proposed Ordinance would establish permanent controls requiring a CUA in all remaining Neighborhood Commercial Districts and all Chinatown Mixed Use Districts before a new business could occupy a space formerly occupied by a Legacy Business. This requirement would not apply if: The Non-Residential space has been vacant (not open to the public) for at least three years or if the Legacy Business has been removed from the Legacy Business registry.

Background

Interim Controls

On September 17, 2024, Supervisor Peskin introduced Ordinance BF 240909, which was enacted into law on November 12, 2024 (Ordinance No. 532-24). This legislation established interim zoning controls for an 18-month period, requiring a CUA before a new business could replace a Legacy Business in Neighborhood Commercial districts, Neighborhood Commercial Transit districts, and the Chinatown Community Business, Chinatown Visitor Retail, and Chinatown Residential Neighborhood Commercial districts. These controls will expire on May 12, 2026, unless they are replaced by permanent controls before that time. If the proposed Ordinance that is the subject of this report is enacted, it will replace the interim controls. As of this report, no CUA applications have been submitted under these interim controls to remove a Legacy Business.

Small Business Commission

The Small Business Commission considered the proposed Ordinance at their regularly scheduled hearing on August 25, 2025. At that hearing, the Commission agreed on the importance of preserving Legacy Businesses but expressed concerns with utilizing zoning restrictions as an effective form of preservation. The Commission voted to not recommend the legislation with a 3-1 vote, with three Commissioners absent. Instead, the Commission recommended exploring tools beyond the CUA, including requiring timelines for CUA process and other permit streamlining improvements, and conducting a nexus study to explore other potential fees to impose on developers in support of displaced small businesses.

> The Small Business Commission voted 3-1 to not recommend the proposed Ordinance, instead recommending exploring tools beyond the CUA for preserving Legacy Businesses.

Issues and Considerations

Legacy Businesses

Legacy Business status is not a land use designation but instead reflects longevity and cultural or historic significance of the operator. San Francisco's Legacy Business Program, administered by the City's Office of Small Business, provides government assistance in maintaining and promoting the small business community. Legacy Business status is based not on generalizable land use impacts but instead on the identity of the subject business. To become a Legacy Business, it must have:

- Operated in San Francisco for 30 years or more
- Had no break in San Francisco operations for longer than 2 years
- Contributed to San Francisco's history or identity
- Be committed to keeping its history or core business model alive

The business must be nominated by a member of the Board of Supervisors or the Mayor and be approved by both the Historic Preservation Commission and the Small Business Commission. Legacy Businesses receive business assistance, free marketing, and promotion through the Office of Small Business, and are eligible for certain city grants. There are currently over 400 Legacy Businesses in the city. The types of businesses in the registry are vast, ranging from animal care to wig shops.

> Legacy Business status is not a land use designation but instead reflects longevity and cultural or historic significance of the operator.

The Purpose of Conditional Use Authorizations (CUAs)

The core of zoning is to regulate how land is developed to balance community needs, protect surrounding uses, and mitigate negative impacts like traffic, noise, or congestion. The Conditional Use authorization is a zoning tool that allows the Planning Commission to evaluate whether a proposed land use is suitable for a specific zoning district or location based on the characteristics and impacts of the proposed use. For example, Bars often require review so the Commission can consider their potential impacts on noise and disturbance to nearby Residential uses. CUAs are not an appropriate tool for preferencing specific entities over others with identical land use impacts.

> The Conditional Use authorization is a zoning tool that allows the Planning Commission to evaluate whether a proposed land use is suitable for a specific zoning district or location.

Requiring CUAs for the change of use *from* or removal *of* a particular business or land use will not necessarily prevent its closure. While the Planning Code restrictions, like the CUA requirement at issue here, can prevent another use from replacing a particular business or land use, it cannot force the current business to stay open. Further, requiring extra process to remove a use could be a disincentive for a landlord to sign leases with the type of business that is being subject to such restrictions.

Misapplication of the CUA

Requiring a CUA solely because a prior tenant was a Legacy Business shifts the process away from land use impacts and toward unrelated business or tenancy circumstances. Introducing operator specific criteria undermines the objectivity and predictability of zoning, which is designed to regulate tangible impacts like traffic, noise, building scale, and spatial form. Subjective social or cultural factors are better addressed through direct business assistance programs – which the Office of Small Business already offers to Legacy Businesses – rather than by altering the structure of zoning and land use regulations.

Impacts of CUAs on Small Businesses

The CUA process is time-intensive and costly. Preparing an application, commissioning required studies, undergoing staff review, and waiting for a public hearing often takes months and can cost thousands of dollars. While larger businesses may absorb these burdens, small businesses, especially those owned by individuals new to entrepreneurship, may be unable to pursue a site encumbered by a Legacy Business CUA requirement. This reduces the pool of potential tenants and prolongs vacancies. In practice, the Ordinance may favor larger, well-capitalized businesses over the small, independent businesses that NCDs aim to support.

CUAs as a Tool for Preventing Legacy Business Closures

The proposed Ordinance does not address the reasons Legacy Businesses close. Businesses may leave because of retirement, declining revenue, or shifts in consumer demand. The CUA requirement does nothing to resolve these underlying issues, nor does it offer financial support or incentives to keep such businesses open. Instead, the CUA requirement acts as a post-closure penalty, introducing hurdles for new tenants without preventing the original closure. In this way, the proposed Ordinance may create the appearance of protecting Legacy Businesses without delivering meaningful benefits. In fact, there have been two recent examples of cases where existing Legacy Business CUA requirements failed to meet their objective:

> *Example 1: Phaedrus Auto Repair*
> Phaedrus is an auto repair business that was placed on the Legacy Business Registry in February of 2025. It is located within the Polk Street NCD. The Polk Street NCD is one of three zoning districts with permanent controls requiring Conditional Use authorization for any business that wants to locate in a space last occupied by a Legacy Business.
>
> In May of 2025, Phaedrus formerly requested to be removed from the registry. At the hearing, they stated that they had planned to close the business at the end of a three-year lease. They felt the CUA requirement after they voluntarily vacated unfairly punished their landlord, who had otherwise been a great partner over their 30+ years. The Small Business Commission approved the removal of Phaedrus from the Legacy Business Registry. This illustrates how the requirement can undermine goodwill between landlords and tenants.
>
> *Example 2: Uptown Bar*
> Uptown was a Bar and Legacy Business located in the Mission Street NCD, another district where a CUA is required for any business that wants to locate in a space last occupied by a Legacy Business. Even with the CUA requirement in place at the time, lease disputes went unresolved and the Bar was forced to close in January of 2024. A new bar, Kiitos, sought to occupy the space. Despite being a replacement use, the CUA process delayed their opening for nine months. Ultimately, the Commission approved the application, citing no basis for denial under Planning Code findings. This case demonstrates how the requirement adds delay without altering outcomes, increasing costs and prolonging vacancies without achieving policy goals.

Though Legacy Business CUA controls have been in place in three zoning districts since at least 2018, the Uptown Bar is the only CUA that has been filed under the requirement. This suggests that the proposed

Ordinance would have limited effectiveness in practice. It may, however, succeed in increasing the time that storefronts are vacant. It may additionally lead some property owners to avoid leasing to Legacy Businesses altogether, undercutting the program's intent by making it more difficult for such businesses to secure long-term leases in the first place. The proposed Ordinance may thus have a chilling effect, creating perverse incentives that discourage landlords from supporting Legacy Businesses.

> The proposed Ordinance may have a chilling effect, creating perverse incentives that discourage landlords from supporting Legacy Businesses.

Assisting Small Businesses through Grants and Technical Assistance

The Department supports the Supervisor's intent to protect small businesses from displacement and would encourage increasing direct resources to that end. Fortunately, several programs are already in place that serve this purpose. The Legacy Business Program supports businesses that have been in operation for more than 30 years through marketing, grants, and technical assistance. One key component of the Legacy Business Program is Business Stabilization Grants. The Business Stabilization Grant program distributes millions in direct financial support to landlords and tenants, with grants tied to long-term lease commitments. Since FY 2016–17, this program has provided over $4.4 million in funding, benefitting 269 businesses. Similarly, Supervisor Melgar's proposed Small Business Rezoning Construction Relief Program would create loans and grants for businesses affected by construction impacts.

> Existing city programs focus on direct interventions that address actual business needs: affordability, stability, and resilience, without misusing the CUA process or creating unintended barriers for new businesses.

The Planning Department has also taken proactive steps to ensure small businesses, including Legacy Businesses, are supported. The proposed Family Zoning ordinance contains two provisions that would assist Legacy Businesses in either staying open or relocating. It would waive CUA requirements (for the Use type where one is required) for Legacy Businesses that are displaced due to a new development and waive development impact fees for those businesses. It would also give development bonuses for Local Program projects that create space for legacy businesses (up to 2 additional sqft of building space for every 1ft of space provided for Community Serving uses, including Legacy Businesses, plus up to 10 feet in additional height). These targeted interventions address actual business needs: affordability, stability, and resilience, without misusing the CUA process or creating unintended barriers for new businesses.

General Plan Compliance

Objective 2 of the Commerce and Industry Element is to "Maintain and enhance a sound and diverse economic base and fiscal structure for the city.". Policy 2.1 is to "Seek to retain existing commercial and industrial activity and to attract new such activity to the city.". Though the Department appreciates that the Supervisor intends the proposed Ordinance to meet this objective and policy, we find that the proposed

Ordinance is not consistent with the General Plan. The imposition of additional CUA requirements would create uncertainty and extended delays that disproportionately affect small businesses. These enterprises, which are critical to neighborhood vitality and economic diversity, may be deterred from establishing operations in San Francisco due to higher costs and longer timelines. Additionally, prolonged vacancies caused by burdensome regulatory processes contribute to disinvestment in underserved communities, limiting access to goods and services and undermining neighborhood stability. As such, the proposed Ordinance would add barriers to new business formation and discourage landlords from leasing to Legacy Businesses. Taken together, these problems demonstrate that the ordinance is inconsistent with General Plan policies that prioritize business retention, attraction, and economic diversity. By creating regulatory disincentives for both new enterprises and Legacy Businesses, the proposal undermines the city's long-term goals of sustaining a diverse, inclusive, and resilient economy.

Racial and Social Equity Analysis

The CUA process imposes requirements that disproportionately burden small, immigrant-owned, and minority-owned businesses. These businesses often operate with limited capital and staff capacity, making it more difficult to navigate lengthy, complex approval processes or to absorb delays in opening. The high costs associated with permitting, legal support, and compliance further exacerbate inequities, as larger or well-capitalized firms are better positioned to weather regulatory hurdles.

> The CUA process imposes requirements that disproportionately burden small, immigrant-owned, and minority-owned businesses.

Prolonged vacancies resulting from CUA requirements can intensify cycles of disinvestment. Empty storefronts not only reduce access to essential goods and services, but also contribute to perceptions of decline, undermining local economic resilience and community well-being. These conditions perpetuate structural inequities by limiting opportunities for wealth-building and entrepreneurship in communities that have historically faced systemic barriers to economic participation.

By contrast, expanding direct assistance programs—such as grants, technical support, and streamlined permitting assistance—provides more equitable pathways for small and minority-owned businesses to enter and remain in the market. Such programs help reduce structural barriers, stabilize neighborhood commercial corridors, and foster more inclusive local economies. These strategies align with racial and social equity goals by advancing economic opportunity, supporting community-serving businesses, and addressing disparities in access to goods, services, and investment.

> By contrast, expanding direct assistance programs provides more equitable pathways for small and minority-owned businesses to enter and remain in the market.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

Recommendation

The Department recommends that the Commission **adopt a recommendation for disapproval** of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department recommends disapproval of the proposed Ordinance. While the Department agrees with the intent to protect Legacy Businesses, the proposed CUA requirement misapplies a land use tool to an economic stabilization challenge. Land use controls are designed to manage intensity, compatibility, and physical impacts of development. They are not effective mechanisms for addressing business retention or stabilization needs. Additionally, the CUA would create barriers for small businesses, discourage landlords from leasing to Legacy Businesses, and prolong vacancies. These outcomes directly conflict with the stated goal.

> Land use controls are not effective mechanisms for addressing business retention or stabilization needs.

By contrast, direct financial assistance and stabilization programs such as grants, rent relief, and technical support remain the most effective means to protect Legacy Businesses. These programs directly address financial and operational challenges faced by Legacy Businesses. They avoid unnecessary regulatory burdens and provide meaningful, equitable support to culturally diverse communities and neighborhoods.

In summary, while the Department supports sustaining Legacy Businesses, the proposed Ordinance is unlikely to achieve that goal. It risks harming the small business ecosystem instead. The Department instead encourages investment in direct assistance strategies that effectively support Legacy Business retention.

Required Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

ATTACHMENTS:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 250808

Portions of this report were drafted and/or edited with the assistance of Microsoft Copilot, in accordance with the City and County of San Francisco's policy on the use of generative AI tools.