

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

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

DATE: September 10, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 180803

Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

1 [Planning Code - Mission Alcoholic Beverage Special Use District and Mission Street
2 Neighborhood Commercial Transit District]

3 **Ordinance amending the Planning Code to require Conditional Use Authorization for**
4 **Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic**
5 **Beverage Special Use District; to establish limits on the number of eating and drinking**
6 **establishments, require Conditional Use Authorization for replacing Legacy**
7 **Businesses and new bars, prohibit mergers of commercial space resulting in greater**
8 **than 1,500 gross square feet, require ground-floor non-residential tenant space for**
9 **large projects, and expand Philanthropic Service and Light Manufacturing uses in the**
10 **Mission Street Neighborhood Commercial Transit District; affirming the Planning**
11 **Department's determination under the California Environmental Quality Act; and**
12 **making findings of consistency with the General Plan, and the eight priority policies of**
13 **Planning Code, Section 101.1, and findings of public necessity, convenience, and**
14 **welfare under Planning Code, Section 302.**

15 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
16 **Additions to Codes** are in *single-underline italics Times New Roman font*.
17 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
18 **Board amendment additions** are in double-underlined Arial font.
19 **Board amendment deletions** are in ~~strikethrough Arial font~~.
20 **Asterisks (* * * *)** indicate the omission of unchanged Code
21 subsections or parts of tables.

22 Be it ordained by the People of the City and County of San Francisco:

23 Section 1. Environmental and Land Use Findings.

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance comply with the California Environmental Quality Act (California Public Resources
Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
2 determination.

3 (b) On _____, the Planning Commission, in Resolution No. _____,
4 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
5 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
6 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
7 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that these
9 Planning Code amendments will serve the public necessity, convenience, and welfare for the
10 reasons set forth in Planning Commission Resolution No. _____, and the Board incorporates
11 such reasons herein by reference. A copy of said Resolution is on file with the Clerk of the
12 Board of Supervisors in File No. _____, and is incorporated herein by reference.

13
14 Section 2. The Planning Code is hereby amended by revising Section 249.60, to read
15 as follows:

16 **SEC. 249.60. MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT.**

17 * * * *

18 (f) **Restaurants and Brewpubs.** The following provisions shall apply to all parcels located
19 east of the western boundary of the Mission Street Neighborhood Commercial Transit District
20 (including parcels fronting 14th Street and east of Mission Street) and north of Cesar Chavez Street:

21 (1) Any proposed Restaurant use, as defined in Planning Code Section 102, must
22 obtain Conditional Use authorization from the Planning Commission pursuant to Planning Code
23 Section 303.

1 (2) *New ABC License Type 75 Brewpubs are prohibited. Existing Brewpubs with*
2 *ABC License Type 75 located within the SUD may relocate, subject to the underlying zoning district,*
3 *within the SUD.*

4
5 Section 3. The Planning Code is hereby amended by revising Section 754, to read as
6 follows:

7
8 **SEC. 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT**
9 **DISTRICT.**

10 (a) Background. The Mission Street Neighborhood Commercial Transit District is
11 located near the center of San Francisco in the Mission District. It lies along Mission Street
12 between 15th and Cesar Chavez (~~Army~~) Streets, and includes adjacent portions of 17th Street,
13 21st Street, 22nd Street, and Cesar Chavez Street. The commercial area of this District
14 provides a selection of goods serving the day-to-day needs of the residents of the Mission
15 District. Additionally, this District serves a wider trade area with its specialized retail outlets.
16 Eating and drinking establishments contribute to the ~~street's~~District's mixed-use character and
17 activity in the evening hours.

18 (b) Purpose. The purposes of the Mission Street Neighborhood Commercial Transit
19 District include:

20 (1) *To preserve and enhance the existing storefront configuration and size, signage,*
21 *artwork, and other character-defining elements of the built environment;*

22 (2) *To preserve the contributions of Legacy Businesses to the history and identity of*
23 *the District;*

1 (3) To retain, enhance, and promote active community involvement and input on
2 development within the District by conducting thorough outreach to stakeholders and neighborhood
3 groups and responding to community input; and

4 (4) To retain, enhance, and promote neighborhood-serving businesses and
5 institutions that enhance economic and workforce opportunities for local residents by coordinating
6 with the Office of Economic and Workforce Development to engage with the City's workforce system to
7 provide employment opportunities, career trainings, and formal partnerships to identify and address
8 both business and community workforce needs.

9 (c) Controls.

10 (1) General Controls. The District is extremely well-served by transit, including
11 regional-serving BART stations at 16th Street and 24th Street, major buses running along
12 Mission Street, and both cross-town and local-serving buses intersecting Mission Street along
13 the length of this district. Given the area's central location and accessibility to the City's transit
14 network, accessory parking for residential uses is not required. Any new parking is required to
15 be set back or be below ground.

16 This District has a mixed pattern of larger and smaller lots and businesses, as well as a
17 sizable number of upper-story residential units. Controls are designed to permit moderate-
18 scale buildings and uses, protecting rear yards above the ground story and at residential
19 levels. New neighborhood-serving commercial development is encouraged mainly at the
20 ground story. Ground story uses are required to include active commercial uses with
21 storefronts facing the street. While offices and general retail sales uses may locate at the
22 second story of new buildings under certain circumstances, most commercial uses are
23 prohibited above the second story. Continuous retail frontage is promoted by requiring ground
24 floor commercial uses in new developments and prohibiting curb cuts. Housing development
25 in new buildings is encouraged above the ground story. Housing density is not controlled by

1 the size of the lot but by requirements to supply a high percentage of larger units and by
2 physical envelope controls. Existing residential units are protected by prohibitions on upper-
3 story conversions and limitations on demolitions, mergers, and subdivisions. Accessory
4 Dwelling Units are permitted within the District pursuant to subsection 207(c)(4) of this Code.

5 (2) **Commercial Mergers.** The consolidation or merger of existing ground floor
6 commercial spaces that would result in greater than 1,500 gross square feet of consolidated or merged
7 space shall be prohibited, except for Legacy Businesses, Arts Activities Uses, and Institutional
8 Community Uses.

9 (3) **First Story Non-Residential Tenant Space for Large Projects.** Projects larger
10 than 10,000 gross square feet shall be required to provide space for a non-residential tenant on the
11 first story with immediate access to the street frontage. The non-residential tenant space shall not
12 exceed 1,500 gross square feet.

13 (4) **Replacement of a Legacy Business Requires Conditional Use Authorization.**
14 Where an immediately prior use was a Legacy Business, as defined under Administrative Code Section
15 2A.242, the controls require any new Non-Residential Use to obtain Conditional Use authorization;
16 provided, however, that this requirement shall not apply where: (A) the subject non-residential space
17 has had no occupant and has not been open to the public for three or more years from the date the
18 application for the new use is filed, or (B) where the Legacy Business has removed itself or has been
19 otherwise removed from the Legacy Business Registry.

20 (5) For any use subject to Conditional Use authorization under this Section 754, the
21 Planning Commission shall find that the use supports at least three of the four purposes of the District
22 as set forth in subsection (b) above.

23
24 **Table 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT**
25 **DISTRICT ZONING CONTROL TABLE**

* * * *

Zoning Category	§ References	Controls		
NON-RESIDENTIAL STANDARDS AND USES				
* * * *				
		Controls by Story		
		1st	2nd	3rd+
* * * *				
Industrial Use Category				
Industrial Uses*	§§ 102, 202.2(d)	NP	NP	NP
<i>Light Manufacturing</i>	<i>§§ 102, 890.54</i>	<i>P(5)</i>	<i>P</i>	<i>P</i>
* * * *				
Institutional Use Category				
* * * *				
Philanthropic Admin. Services	§ 102	NP	NP	<i>NPP(6)</i>
* * * *				
Sales and Service Use Category				
* * * *				
Bar	§§ 102, 202.2(a)	<i>PC(7)</i>	<i>PC(7)</i>	NP
* * * *				
Restaurant	§§ 102, 202.2(a), <i>249.60(f)(1)</i>	<i>PC(7)</i>	NP	NP
Restaurant, Limited	§§ 102, 202.2(a)	<i>P(7)</i>	NP	NP

1 * * * *

2 (5) Light Manufacturing is not permitted in first-story spaces that front Mission Street.

3 (6) Philanthropic Administrative Services shall not exceed 2,500 gross square feet per use.

4 (7) The total number of eating and drinking uses (Restaurants, Limited Restaurants, and
5 Bars) within the District shall not exceed 167. A new Restaurant, Limited Restaurant, or Bar shall not
6 be permitted if it would result in a net total of more than 167 eating and drinking uses in the District.
7 Accessory Limited Restaurants are not subject to and do not count toward the 167 cap on eating and
8 drinking uses.

9
10 Section 4. Two years after the effective date of this ordinance, the Office of Economic
11 and Workforce Development, in consultation with the Planning Department, shall evaluate
12 economic conditions and the functionality of the Mission Alcoholic Beverage Special Use
13 District and Mission Street Neighborhood Commercial Transit District. No less than five years
14 and no more than six years from the effective date of this ordinance, the Office of Economic
15 and Workforce Development, in consultation with the Planning Department, shall again
16 evaluate economic conditions and the functionality of the Mission Alcoholic Beverage Special
17 Use District and Mission Street Neighborhood Commercial Transit District and shall make a
18 report to the Board of Supervisors on each district's effectiveness in serving the purposes of
19 the applicable district and the Mission District as a whole, which report may include
20 recommended amendments to the Planning Code provisions regarding those districts.

21
22 Section 5. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

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Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 

ROBB W. KAPLA
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Mission Alcoholic Beverage Special Use District and Mission Street Neighborhood Commercial Transit District]

Ordinance amending the Planning Code to require Conditional Use Authorization for Restaurants and prohibit new brewpubs within a subarea of the Mission Alcoholic Beverage Special Use District; to establish limits on the number of eating and drinking establishments, require Conditional Use Authorization for replacing Legacy Businesses and new bars, prohibit mergers of commercial space resulting in greater than 1,500 gross square feet, require ground-floor non-residential tenant space for large projects, and expand Philanthropic Service and Light Manufacturing uses in the Mission Street Neighborhood Commercial Transit District; 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, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Mission Alcoholic Beverage Special Use District

The Mission Alcoholic Beverage Special Use District ("SUD") does not require Conditional Use authorization for Restaurants. The SUD does not have any controls for new Brewpubs or relocation of Brewpubs within the SUD.

On January 9, 2018, the Board of Supervisors adopted Resolution No. 6-18, which extended interim controls requiring Conditional Use authorization for proposed new Restaurant uses within a subarea of the SUD (the interim control's subarea boundaries are 13th, Duboce, and Division Streets to the north, Mission Street to the west, Cesar Chavez Street to the south, and Potrero Avenue to the east).

Mission Street Neighborhood Commercial Transit District

The Mission Street Neighborhood Commercial Transit District ("Mission NCT") does not contain any restrictions on ground floor commercial mergers or replacement of Legacy Businesses. Light Manufacturing Uses and Philanthropic Administrative Services are not permitted in the Mission NCT. There is no cap on the total number of eating and drinking uses (Restaurants, Limited Restaurants, and Bars) in the Mission NCT. Bars are permitted on the first and second floors within the Mission NCT.

Amendments to Current Law

Mission Alcoholic Beverage Special Use District

The Proposed Legislation would create a subarea within the SUD encompassing all parcels east of the western boundary of the Mission NCT and north of Cesar Chavez Street. Within this subarea, new Restaurants are required to get a Conditional Use authorization from the Planning Commission. The Proposed Legislation also prohibits new Brewpubs from opening within the subarea, unless the Brewpub is relocating from an existing location within the SUD.

Mission Street Neighborhood Commercial Transit District

The Proposed Legislation would prohibit commercial mergers on ground floor spaces that would result in greater than 1,500 gross square feet of merged space. The prohibition does not apply to mergers where the merged space will serve a Legacy Business, Arts Activities Use, or Institutional Use.

The Proposed Legislation would create a new requirement for projects larger than 10,000 square feet. These large projects shall be required to provide space, up to 1,500 gross square feet, for non-residential tenant use on the ground floor with immediate access to the street.

The Proposed Legislation would require a Conditional Use authorization to replace a Legacy Business within the Mission NCT. The Proposed Legislation mandates that the Planning Commission, in granting a Conditional Use, must find that the use supports at least three of the four purposes of the Mission NCT.

The Proposed Legislation updates the District Zoning Controls Table to: (a) allow Light Manufacturing on all floors throughout the Mission NCT; (b) cap the total number of eating and drinking uses at 167 establishments within the Mission NCT; (c) pursuant to the changes in the SUD, require that Restaurants receive a Conditional Use authorization; (d) new Bars on the first or second story require Conditional Use authorization; and (e) allow Philanthropic Administrative Services on the third floor and above throughout the Mission NCT (subject to a limit of 2,500 square feet per use).

Background Information

The Proposed Legislation implements key objectives of the Mission Action Plan 2020 ("MAP2020"). MAP2020 is a community-initiated effort that began in 2015 as a collaborative process between community advocates. The MAP2020 effort recognizes the Mission District's array of nonprofit service providers, cultural institutions, and small legacy businesses, and the unintended consequences of a rebounding economy causing displacement of many long-time residents and businesses. The Proposed Legislation is aimed at addressing MAP2020's objectives to protect and promote: (1) small neighborhood-serving retail by limiting large commercial mergers, requiring space for non-residential tenant

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use, and requiring Conditional Use authorizations for replacing Legacy Businesses; (2) light-industrial businesses by allowing Light Manufacturing within the Mission NCT; and (3) a suitable number of alcohol-serving establishments in the Mission District by capping the number of eating and drinking establishments within the Mission NCT, requiring Conditional Use authorization for new Restaurants and Bars and prohibiting new Brewpubs within a subarea of the SUD.

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