

File No. 221104 Committee Item No. 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date January 30, 2023

Board of Supervisors Meeting Date _____

Cmte Board

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Completed by: Erica Major Date January 26, 2023
Completed by: Erica Major Date _____

1 [Planning Code - SoMa Nighttime Entertainment Uses; Leather and LGBTQ Cultural District]

2

3 **Ordinance amending the Planning Code to allow Nighttime Entertainment as a**
4 **principally permitted use on properties fronting Folsom Street between 7th Street and**
5 **Division Street and properties fronting 11th Street between Howard Street and Division**
6 **Street in the Folsom Street Neighborhood Commercial Transit District, the Regional**
7 **Commercial District, and the Western SoMa Mixed Use-General District; removing**
8 **certain restrictions on Nighttime Entertainment uses on properties fronting Folsom**
9 **Street between 7th Street and Division Street and properties fronting 11th Street**
10 **between Howard Street and Division Street in the Western SoMa Special Use District;**
11 **clarifying the buffer restrictions for Nighttime Entertainment uses in the**
12 **Service/Arts/Light Industrial District and the Western SoMa Mixed Use-Office District;**
13 **affirming the Planning Department’s determination under the California Environmental**
14 **Quality Act; making findings of consistency with the General Plan and the eight priority**
15 **policies of Planning Code, Section 101.1; and making findings of public necessity,**
16 **convenience, and welfare pursuant to Planning Code, Section 302.**

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

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

25 Section 1. Land Use and Environmental Findings.

1 (a) The Planning Department has determined that the actions contemplated in this
2 ordinance comply with the California Environmental Quality Act (California Public Resources
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
4 Supervisors in File No. 221104 and is incorporated herein by reference. The Board affirms
5 this determination.

6 (b) On January 12, 2023, the Planning Commission, in Resolution No. 21225, adopted
7 findings that the actions contemplated in this ordinance are consistent, on balance, with the
8 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
9 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
10 Board of Supervisors in File No. 221104, and is incorporated herein by reference.

11 (c) Pursuant to Planning Code Section 302, this Board finds that this ordinance will
12 serve the public necessity, convenience, and welfare for the reasons set forth in Planning
13 Commission Resolution No. 21225, and incorporates such reasons by this reference thereto.
14 A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No.
15 221104.

16
17 Section 2. General Background and Findings.

18 (a) San Francisco's South of Market area has been a local and world capital for
19 Leather culture since the 1960s, as well as one of the city's most significant and distinctive
20 Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) neighborhoods since the 1950s, with a
21 unique concentration of businesses, institutions, organizations, events, individuals, and artists
22 that has been an integral part of the City's cultural richness, economic prosperity, and
23 historical significance.

24 (b) For over 50 years, South of Market, particularly the Folsom and 11th Street
25 corridors, has been one of San Francisco's major nightlife areas, in which innumerable bars

1 and nightclubs were established catering to diverse populations, such as the lesbian bars
2 Hula Shack and Baybrick Inn, and renowned dance bars and drag-focused entertainment
3 venues such as The Stud, The End-Up, DNA Lounge, and Oasis.

4 (c) In 2018, the Board of Supervisors adopted Resolution No. 129-18 establishing the
5 Leather and LGBTQ Cultural District (“Cultural District”). Soon thereafter, the City enacted
6 Ordinance No. 126-18, which codified the Cultural District at Administrative Code Section
7 107.3(e) and defined its boundaries as “the area bounded by Howard Street to the northwest,
8 7th Street to the northeast, Highway 101 to the south between Howard Street and Bryant
9 Street, Division Street to the south between Bryant Street and Interstate 80, and Interstate 80
10 to the east, as well as the south side of Harrison Street between 7th Street and Morris Street.”

11 (d) In establishing the Cultural District, the City determined to preserve and further
12 develop Leather and LGBTQ nightlife and commercial corridors within the boundaries of the
13 Cultural District.

14 (e) The Cultural District is mostly contained within the Western SoMa Special Use
15 District, which allows but imposes restrictions on the establishment of new Nighttime
16 Entertainment uses. The Cultural District also encompasses the entirety of the Folsom Street
17 Neighborhood Commercial Transit District, and portions of the Western SoMa Mixed Use-
18 General District and the Regional Commercial District. These ~~two~~ districts do not allow for
19 Nighttime Entertainment uses.

20 (f) Nighttime Entertainment uses are integral to meeting the purposes of the Cultural
21 District. Restrictions on these uses are at odds with the stated purposes of the Cultural
22 District and the rich history of Leather and LGBTQ nightlife in SoMa. Lifting these restrictions
23 in designated areas of the Cultural District is part of the ongoing community conversation and
24 engagement around zoning controls in SoMa.

(g) To promote the establishment and enhance the vitality of nightlife in areas of the City strongly associated with the Leather and LGBTQ communities, this ordinance amends the Planning Code to permit Nighttime Entertainment uses in certain zoning districts overlapping in whole or part with the Cultural District.

Section 3. The Planning Code is hereby amended by revising Sections 757, 758, 823, and 844, 845, and 846, to read as follows:

SEC. 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

* * * *

Table 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

		Folsom Street NCT		
Zoning Category	§ References	Controls		
* * * *				
NON-RESIDENTIAL STANDARDS AND USES				
* * * *				
		Controls by Story		
		1st	2nd	3rd
* * * *				
Entertainment, Arts, and Recreation Use Category				
Entertainment, Arts, and Recreation Uses*	§§ 102, 202.4	NP	NP	NP

1	Arts Activities	§ 102	P	P	P
2	Entertainment, General	§ 102	P	P	P
3					
4	<u>Entertainment, Nighttime</u>	<u>§ 102</u>	<u>NP(10)</u>	<u>NP(10)</u>	<u>NP(10)</u>
5					
6	* * * *				

7 (10) P on properties fronting Folsom Street between 7th Street and Division Street.

8

9 **SEC. 758. REGIONAL COMMERCIAL DISTRICT.**

10 The Regional Commercial District (RCD) is located along the 9th Street and 10th Street
 11 corridors, generally running from Mission Street to Harrison Street, and provides for a wide
 12 variety of commercial uses and services to a population greater than the immediate
 13 neighborhood. While providing convenience goods and services to the surrounding
 14 neighborhood, the RCD corridors are also heavily trafficked thoroughfares into and out of the
 15 City that serve shoppers from other neighborhoods and cities.

16 Large-scale lots and buildings and wide streets distinguish the RCD from smaller-
 17 scaled neighborhood commercial streets, although the district also includes small as well as
 18 moderately scaled lots. Buildings typically range in height from two to four stories with
 19 occasional taller structures.

20 A diverse commercial environment is encouraged for the RCD. Eating and drinking
 21 establishments, general retail, office, certain auto uses, and production, distribution, and
 22 repair uses generally are permitted with certain limitations at the first and second stories. Arts
 23 Activities are encouraged on all floors and Nighttime Entertainment uses are allowed on the
 24 First and Second Stories in historic buildings with Conditional Use authorization, except that
 25 Nighttime Entertainment uses are Principally Permitted in Article 10 Landmark Building No.

1 120 (currently St. Joseph's Church at 1401 Howard Street) and on properties fronting Folsom
 2 Street between 7th Street and Division Street.

3 * * * *

4 **Table 758. REGIONAL COMMERCIAL DISTRICT**
 5 **ZONING CONTROL TABLE**

		Regional Commercial District		
Zoning Category	§ References	Controls		
* * * *				
NON-RESIDENTIAL STANDARDS AND USES				
* * * *				
		Controls by Story		
		1st	2nd	3rd
* * * *				
Entertainment, Arts, and Recreation Use Category				
Entertainment, Arts, and Recreation Uses*	§§ 102, 202.4	NP	NP	NP
Arts Activities	§ 102	P	P	P
Entertainment, General	§ 102	C	C	NP
Entertainment, Nighttime	§ 102	NP(3)	NP(3)	NP(3)
* * * *				

24 * Not listed below

25 (1) NP on 1st floor on lots with more than 25 feet of street frontage.

1 (2) Allowed with C so long as there is no ingress/ egress onto alleys, as defined in the
2 Western SoMa Community Plan, containing RED or RED-MX Districts

3 (3) C on First and Second Story in historic buildings and P in Article 10 Landmark
4 Building No. 120 (St. Joseph’s Church at 1401 Howard Street) per Section 703.9, and subject
5 to the Good Neighbor Policies for Nighttime Entertainment activities in Planning Code Section
6 803.5(b), and P on properties fronting Folsom Street between 7th Street and Division Street.

7 * * * *

8
9 **SEC. 823. WESTERN SOMA SPECIAL USE DISTRICT.**

10 * * * *

11 (c) **Controls.** All provisions of the Planning Code shall apply except as otherwise
12 provided in this ~~Section~~ subsection (c).

13 * * * *

14 (9) **Buffers from Nighttime Entertainment and Animal Services.** Additional
15 requirements applicable to Nighttime Entertainment uses and Kennels, as defined in Section
16 102, are as follows:

17 (A) **Nighttime Entertainment.** No portion of a non-accessory Nighttime
18 Entertainment use, as defined in Section 102 of this Code, shall be permitted within 200 linear
19 feet of any property within a RED or RED-MX District. This buffer shall not apply to (i) any
20 Nighttime Entertainment use within the WMUO District where a Nighttime Entertainment use
21 that was established with a building permit application or a permit from the Entertainment
22 Commission or San Francisco Police Department was in operation within five years prior to
23 submission of a building permit application to re-establish a Nighttime Entertainment use, ~~or~~
24 (ii) a Nighttime Entertainment Use established within the Regional Commercial District
25 pursuant to Section 703.9(b) of this Code, or (iii) properties fronting Folsom Street between 7th

1 Street and Division Street and properties fronting 11th Street between Howard Street and Division
2 Street.

3 * * * *

4
5 **SEC. 844. WMUG – WSOMA MIXED USE-GENERAL DISTRICT.**

6 The WSoMa Mixed Use-General (WMUG) District is largely comprised of the low-scale,
7 production, distribution, and repair uses mixed with housing and small-scale retail. The
8 WMUG is designed to maintain and facilitate the growth and expansion of small-scale light
9 manufacturing, wholesale distribution, arts production and performance/exhibition activities,
10 and general commercial and neighborhood-serving retail and personal service activities, while
11 protecting existing housing and encouraging the development of housing at a scale and
12 density compatible with the existing neighborhood.

13 Housing is encouraged over ground floor commercial and production, distribution,
14 and repair uses. New residential or mixed use developments are encouraged to provide as
15 much mixed-income family housing as possible. Existing group housing and dwelling units will
16 be protected from demolition or conversion to nonresidential use by requiring conditional use
17 review. Accessory Dwelling Units are permitted within the district pursuant to subsection
18 207(c)(4) of this Code.

19 Hotels, ~~nighttime entertainment~~, movie theaters, adult entertainment, and heavy
20 manufacturing uses are not permitted. Office use is restricted to customer-based services on
21 the ground floor.

22
23

Table 844 WMUG – WSOMA MIXED USE-GENERAL DISTRICT ZONING CONTROL TABLE

24

No.	Zoning Category	§ References	WSoMa Mixed Use-General District Controls
* * * *			
Assembly, Recreation, Arts and Entertainment			
844.55	Arts Activity	§ 102.2	P
844.56	Nighttime Entertainment	§§ 102. 17 , 181(f), 803.5(b), 823	NP <u>(1)</u>
* * * *			

(1) P on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.

* * * *

SEC. 845. WMUO – WSOMA MIXED USE-OFFICE DISTRICT.

Table 845 WMUO – WSOMA MIXED USE-OFFICE DISTRICT ZONING CONTROL TABLE			
No.	Zoning Category	§ References	WSoMa Mixed Use-Office District Controls
* * * *			
Assembly, Recreation, Arts and Entertainment			
844.55	Arts Activity	§ 102.2	P
844.56	Nighttime Entertainment	§§ 102. 17 , 181(f), 803.5(b), 823	P <u>(1)</u>
* * * *			

1 (1) See buffer restrictions and exceptions for Nighttime Entertainment in Section
2 823(c)(9)(A).

3 * * * *

4
5 **SEC. 846. SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT.**

6 * * * *

Table 846 SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE			
No.	Zoning Category	§ References	SALI District Controls
* * * *			
Assembly, Recreation, Arts and Entertainment			
844.55	Arts Activity	§ 102.2	P
844.56	Nighttime Entertainment	§§ 102.47, 181(f), 803.5(b), 823	P <u>(1)</u>
* * * *			

7
8
9
10
11 (1) See buffer restrictions and exceptions for Nighttime Entertainment in Section
12 823(c)(9)(A).

13 * * * *

14
15 Section 4. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor’s veto of the ordinance.
19
20
21
22
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25

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Giulia Gualco-Nelson
11 GIULIA GUALCO-NELSON
 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 1/23/2023)

[Planning Code - SoMa Nighttime Entertainment Uses; Leather and LGBTQ Cultural District]

Ordinance amending the Planning Code to allow Nighttime Entertainment as a principally permitted use on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Folsom Street Neighborhood Commercial Transit District, the Regional Commercial District, and the Western SoMa Mixed Use-General District; removing certain restrictions on Nighttime Entertainment uses on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Western SoMa Special Use District; clarifying the buffer restrictions for Nighttime Entertainment uses in the Service/Arts/Light Industrial District and the Western SoMa Mixed Use-Office District; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

Currently, Nighttime Entertainment uses are not permitted in the Folsom Street Neighborhood Commercial Transit District and the Western SoMa Mixed Use-General District. (See Planning Code Sections 757 and 844.) The Western SoMa Special Use District permits Nighttime Entertainment Uses, but imposes restrictions on where those uses can be established within the Special Use District. Specifically, Planning Code Section 823(c)(9)(A) prohibits Nighttime Entertainment uses within 200 linear feet of any property within a Residential Enclave District or Residential Enclave-Mixed District.

The Leather and LGBTQ Cultural District (Administrative Code Section 107.3(e)) encompasses the Folsom Street Neighborhood Commercial Transit District and portions of the Western SoMa Mixed Use-General District and Western SoMa Special Use District.

Amendments to Current Law

This ordinance would amend Planning Code Section 757 to authorize Nighttime Entertainment as a principally permitted use on properties fronting Folsom Street between 7th Street and Division Street in the Folsom Neighborhood Commercial Transit District.

This ordinance would also amend Planning Code Section 844 to authorize Nighttime Entertainment as a principally permitted use in the Western SoMa Mixed Use-General District

(WMUG), specifically on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.

In addition, this ordinance would amend Planning Code Section 823 to remove the 200 linear feet buffer requirement in the Western SoMa Special Use District (SUD), specifically on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.

Background Information

This updated Legislative Digest includes amendments that were adopted at a hearing of the Land Use and Transportation Committee of the Board of Supervisors, on January 23, 2023. The amendments include:

- amending Planning Code Section 758 to authorize Nighttime Entertainment as a Permitted Use on properties fronting Folsom Street between 7th Street and Division Street in the Regional Commercial District;
- amending Planning Code Section 845 to clarify that in the Western SoMa Mixed Use Office District Nighttime Entertainment is subject to the buffer restrictions in Section 823(c)(9)(A);
- amending Planning Code Section 846 to clarify that in the Service/Arts/Light Industrial District Nighttime Entertainment is subject to the buffer restrictions in Section 823(c)(9)(A).

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: October 28, 2022
To: Planning Department/Planning Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral – File No. 221104
Planning Code - SoMa Nighttime Entertainment Uses; Leather and LGBTQ
Cultural District

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure
- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302
- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
11/4/22

A handwritten signature in blue ink, appearing to read "Erica Major".

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.



January 18, 2023

Ms. Angela Calvillo, Clerk
Honorable Supervisor Dorsey
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 2022-010719PCA:
SoMa Nighttime Entertainment Uses; Leather and LGBTQ Cultural District
Board File No. 221104

Planning Commission Recommendation: Approval with Modification

Dear Ms. Calvillo and Supervisor Dorsey

On January 12, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Dorsey that would amend Planning Code Section to allow Nighttime Entertainment as a principally permitted use on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Folsom Street Neighborhood Commercial Transit District and the Western SoMa Mixed Use-General District. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Add the following footnote to Nighttime Entertainment Uses in the RCD: *P on properties fronting Folsom Street between 7th Street and Division Street.*
2. Add the following footnote to Nighttime Entertainment in the SALI and WMUO: *See buffer restrictions and exceptions for Nighttime Entertainment in Section 823(c)(9)(A).*

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

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

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,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc: Giulia Gualco-Nelson, Deputy City Attorney
Madison Tam, Aide to Supervisor Dorsey
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21225

HEARING DATE: JANUARY 12, 2023

Project Name: SoMa Nighttime Entertainment Uses; Leather and LGBTQ Cultural District
Case Number: 2022-010719PCA [Board File No. 221104]
Initiated by: Supervisor Dorsey / Introduced October 25, 2022
Staff Contact: Aaron Starr, Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW NIGHTTIME ENTERTAINMENT AS A PRINCIPALLY PERMITTED USE ON PROPERTIES FRONTING FOLSOM STREET BETWEEN 7TH STREET AND DIVISION STREET AND PROPERTIES FRONTING 11TH STREET BETWEEN HOWARD STREET AND DIVISION STREET IN THE FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT AND THE WESTERN SOMA MIXED USE-GENERAL DISTRICT; REMOVING CERTAIN RESTRICTIONS ON NIGHTTIME ENTERTAINMENT USES ON PROPERTIES FRONTING FOLSOM STREET BETWEEN 7TH STREET AND DIVISION STREET AND PROPERTIES FRONTING 11TH STREET BETWEEN HOWARD STREET AND DIVISION STREET IN THE WESTERN SOMA SPECIAL USE DISTRICT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE PURSUANT TO PLANNING CODE, SECTION 302.

WHEREAS, on October 25, 3033 Supervisors Dorsey introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 221104, which would amend the Planning Code to allow Nighttime Entertainment as a principally permitted use on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Folsom Street Neighborhood Commercial Transit District and the Western SoMa Mixed Use-General District; removing certain restrictions on Nighttime Entertainment uses on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Western SoMa Special Use District;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 12, 2022; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment; 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 approves with modifications the proposed ordinance. The Commission’s proposed recommendation(s) is/are as follows:

Amend the ordinance to make the following clerical additions:

1. Add the following footnote to Nighttime Entertainment Uses in the RCD: *P on properties fronting Folsom Street between 7th Street and Division Street.*
2. Add the following footnote to Nighttime Entertainment in the SALI and WMUO: *See buffer restrictions and exceptions for Nighttime Entertainment in Section 823(c)(9)(A).*

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 supports the proposed amendments because they loosen the restrictions on Nighttime Entertainment uses in the Eastern Neighborhoods, helping to make a more vibrant and sustainable Nighttime Entertainment district. These changes also balance the need to preserve the livability of the surroundings residential areas, and the need to protect the historic and cultural assets of the SoMa Pilipino community.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed Planning Code amendments have been carefully throughout to reduce any undesirable consequences. The changes also follow established land use patterns in the Eastern Neighborhood's.

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 allows new commercial activity in districts where it once was largely prohibited. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees. This enhances San Francisco as a location for firms.

OBJECTIVE 8

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

Policy 8.2

Support locally initiated efforts to improve the visitor trade appeal of neighborhood commercial districts.

The proposed amendments will help the City's nightlife industry, which is a significant tourist draw for San Francisco.

Western SoMa Area Plan

OBJECTIVE 1.3

MINIMIZE NOISE IMPACTS AND ENSURE APPROPRIATE NOISE ORDINANCE REQUIREMENTS ARE MET.

Policy 1.3.2

Reduce potential land use conflicts by carefully considering the location and design of both noise-generating uses and sensitive uses in the Western SoMa.

The proposed amendments have been carefully considered to minimize impacts to adjacent residential areas.

OBJECTIVE 2.2

PROMOTE APPROPRIATE NEW NEIGHBORHOOD BUSINESS OPPORTUNITIES THAT CREATIVELY RESPOND TO NEIGHBORHOOD, CITYWIDE AND REGIONAL ECONOMIC NEEDS AND TRENDS.

Policy 2.2.15

Provide relocation opportunities for existing nighttime entertainment uses into areas where the impacts on neighborhood residential areas can be minimized.

Opening areas of the Eastern Neighborhoods for Nighttime Entertainment will provide more areas to which existing Nighttime Entertainment uses can relocate.

OBJECTIVE 8.3

PROTECT AND ENCOURAGE APPROPRIATE NEIGHBORHOOD ENTERTAINMENT USES.

Policy 8.3.4

Provide opportunities for relocation of existing entertainment uses from residential areas to non-residential areas of the Western SoMa SUD.

Opening areas of the Eastern Neighborhoods for Nighttime Entertainment will provide more areas to which existing Nighttime Entertainment uses can relocate.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent 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 would not have a negative effect on neighborhood serving retail uses and will not 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 proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 12, 2023.



Jonas P. Ionin
Commission Secretary

AYES: Braun, Ruiz, Diamond, Imperial, Koppel, Moore, Tanner

NOES: None

ABSENT: None

ADOPTED: January 12, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: January 12, 2023

90-Day Deadline: January 26, 2023

Project Name: SoMa Nighttime Entertainment Uses; Leather and LGBTQ Cultural District
Case Number: 2022-010719PCA [Board File No. 221104]
Initiated by: Supervisor Dorsey / Introduced October 25, 2022
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to allow Nighttime Entertainment as a principally permitted use on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Folsom Street Neighborhood Commercial Transit District and the Western SoMa Mixed Use-General District; removing certain restrictions on Nighttime Entertainment uses on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street in the Western SoMa Special Use District; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302

The Way It Is Now:

1. The Planning Code establishes a 200’ buffer around RED and RED-MX Districts that prohibits Nighttime Entertainment or Animal Services uses within that buffer.
2. The zoning districts listed below have properties that front along the Folsom Street between 7th Street and Division Street or along 11th Street between Howard Street and Division Street. In those districts,

Nighttime Entertainment is regulated as follows:

- Folsom Street NCT: NP
- RCD: NP
- WMUG: NP
- WMUO: P
- SALI: P

The Way It Would Be:

1. The 200' buffer would remain; however, there would be an exception for properties that front along Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.
2. The underlying controls in the listed zoning districts would not change; however, regardless of the underlying zoning, Nighttime Entertainment would be principally permitted for properties that front along Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street.

Background

On November 17, 2022, the Planning Commission recommended approval with modification for Board File 220340, "Neighborhood Commercial and Mixed-Use Zoning Districts." This ordinance brought the Eastern Neighborhood zoning districts into conformity with the Code Reorganization Project and made several substantive amendments. The Commission's recommendation included, among other things, the exact provisions outline in this ordinance; therefore, the Commission has already recommended approval on the changes proposed in this ordinance. Yet, because this ordinance has a new board file number, the Planning Code requires a hearing before the Planning Commission.

Issues and Considerations

Community Consensus

The provisions outlined in this ordinance are a result of discussions between the various interest groups in the Eastern Neighborhood area, including the SoMa Pilipinas and the Leather and LGBTQ Community. The proposed amendments represent a compromise between those interests. The amendments seek to balance the need to preserve the livability of the RED and RED-MX Districts, the desire to preserve existing cultural institutions, and the desire to allow for more Nighttime Entertainment uses in the Western SoMa plan area.

General Plan Compliance

The proposed ordinance is consistent with the General Plan in that it will allow new Nighttime Entertainment uses to locate within generally recognized commercial areas; seeks to retain and enhance existing entertainment uses; and will help maintain a favorable cultural climate in San Francisco. This ordinance is consistent with the Western SoMa Plan in that it has carefully considered the appropriate location of Nighttime Entertainment uses

to reduce potential land use impacts and will allow existing Nighttime Entertainment venues additional areas into which they can relocate.

Racial and Social Equity Analysis

The proposed Planning Code Amendments cannot be tied directly to furthering racial and social equity; however, the proposed amendments were created out of a compromise between two community groups, the LGBTQ Leather Community, and the SoMa Pilipinas. Both groups have been working to preserve their history and culture within the Western SoMa plan area. Part of the mission of the Leather and LGBTQ Cultural District is to "To preserve, advance, and promote San Francisco's LEATHER & LGBTQ Cultural District as a local, national, and international resource, and as a culturally and commercially enriched neighborhood and district." Part of the missions of the SoMa Pilipinas is "to prevent the displacement of Filipino residents, protect our historic and cultural assets, and sustain our legacy institutions and community organizations." The proposed amendments recognize the importance of Nighttime Entertainment to the LGBT Leather Community, while also acknowledging the importance of preserving the livability of the residential areas and preserving historic and cultural assets important to the Pilipino Community.

Implementation

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

Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

Recommendation 1: Amend the ordinance to make the following clerical additions:

1. Add the following footnote to Nighttime Entertainment Uses in the RCD: *P on properties fronting Folsom Street between 7th Street and Division Street.*
2. Add the following footnote to Nighttime Entertainment in the SALI and WMUO: *See buffer restrictions and exceptions for Nighttime Entertainment in Section 823(c)(9)(A).*

Basis for Recommendation

The Department supports the proposed amendments because they loosen the restrictions on Nighttime Entertainment uses in the Eastern Neighborhoods, helping to make a more vibrant and sustainable Nighttime Entertainment district. These changes also balance the need to preserve the livability of the surrounding residential areas, and the need to protect the historic and cultural assets of the SoMa Pilipino community.

Recommendation 1: The proposed modifications are clerical and intended to provide more clarity in the Planning Code.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) 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; however, comment was provided to the Planning Commission on the proposed amendments during the November 17 hearing. The comments directed at these amendments were general positive.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 221104

BOARD of SUPERVISORS



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MEMORANDUM

Date: October 28, 2022
To: Planning Department/Planning Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral – File No. 221104
Planning Code - SoMa Nighttime Entertainment Uses; Leather and LGBTQ
Cultural District

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.